# MINUTES OF THE MEETING OF THE BOARD OF DENTISTRY

April 21, 2006

# ROLL CALL

The meeting of the Board of Dentistry was called to order at 8:00 a.m. by David Mlnarik, Chairperson, in the Staybridge Room of the Staybridge Suites, 2701 Fletcher Avenue, Lincoln, Nebraska. The agenda was sent to the Board members and other interested parties prior to the meeting. The following members answered the roll call:

Sam Jacoby, DDS Jane Lott, RDH David Mlnarik, DDS James P. Murphy, DDS Julie A Marshall, DDS Robert M. Hinrichs, DDS Doris Schrader, Secretary

Absent: Paul E. Tamisiea, Chairperson

Jane Stratman Judith Kissell

Present from the Credentialing Division was Becky Wisell, Section Administrator and Suzanne Tesina, Credentialing Specialist; Lisa Anderson, Assistant Attorney General; Michael Grutsch, Program Manager, Larry Wiehn, Investigator and Jeff Newman, Investigator from the Investigations Division.

# ADOPTION OF AGENDA

The Board requested that David O'Doherty, Nebraska Dental Association (NDA) be given the opportunity to present a 4 minute slide presentation on the North Platte - Mission of Mercy; that Dr. Bill Corcoran, Well-being Committee, be able to address the Board; and approval of a remedial course given to Mariah Carroll. Lott moved, seconded by Schrader, to approve the agenda as amended. Voting aye: Hinrichs, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea, Stratman and Kissell. Motion carried.

#### APPROVAL OF MINUTES

#### January 13, 2006

Page 1-3: No changes.

Page 4: Under Expanded Functions for Dental Hygienists/Dental Assistants in the Orthodontic

Office, 2 paragraph, line 3, change "a hygienist" to "an assistant".

Page 5-8: No changes.

Jacoby moved, seconded by Marshall, to approve the minutes from the January 13, 2006 meeting, as amended. Voting aye: Hinrichs, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea, Stratman and Kissell. Motion carried.

# INVESTIGATIONAL REPORTS – CLOSED SESSION

Murphy moved, seconded by Lott, to go into closed session at 8:05 a.m. for the purpose of hearing investigational reports and compliance monitoring reports. Voting aye: Hinrichs, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea, Stratman and Kissell. Motion carried.

Hinrichs recused himself from discussion at 10:05 a.m. Hinrichs returned to the meeting at 10:10 a.m. Ruth Schuldt entered the meeting at 10:00 a.m. Kissell entered the meeting at 11:34 a.m. Ruth Schuldt left the meeting at 11:48 a.m.

Schrader moved, seconded by Jacoby to reopen the session at 11:48 a.m. Voting aye: Hinrichs, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea, Stratman and Kissell. Motion carried.

Joyce Davidson, Regulation Analysis and Integration Department and David O'Doherty, NDA entered the meeting at 11:50 a.m.

Michael Grutsch left the meeting at 11:50 a.m.

David O'Doherty, NDA, gave a slide-show presentation on the recent Mission of Mercy in North Platte. Mr. O'Doherty requested obtaining a temporary nitrous oxide license for dentists volunteering at the Mission of Mercy. Wisell stated that she would like to get the advice of Roger Brink, legal counsel. Mlnarik requested a list of pedodontists to consider. Murphy asked if they would be required to pay the fees. Wisell said that they would have to because there is no way to waive the fee. Mlnarik told Mr. O'Doherty that the Board would like to waive the fee but the statutes and regulations would not allow the fee to be waived, but donations may be able to take care of the cost involved.

# **DISCIPLINARY INFORMATION**

# Actions Taken/ Pending

Wisell reviewed the Actions Taken/Pending list. Anderson stated that Dr. Gewain's and Dr. Slominski's cases were close to being settled and explained Dr. Gillham's Agreed Settlement in more detail.

# **UNFINISHED BUSINESS**

#### Report by Sub-Committee on Enteral Conscious Sedation – Tamisiea

The Sub-Committee on Enteral Conscious Sedation did not meet. Hinrichs reported that they were invited to attend a seminar about Enteral Conscious Sedation.

# Report by Sub-Committee on Alternatives for Expanding CE Acceptance – Mlnarik

Mlnarik discussed the Dentist's Advantage home study program. Mlnarik thought that Ruth Schuldt, Compliance Monitor could use it for meeting continuing education requirements for probationary terms and conditions. There would need to be a disclaimer of endorsement of insurance company who sponsors the course.

# Consideration of CE for Participating in Well Being Activities – Murphy

Murphy attended the Well-Being Committee meeting. Murphy explained that approximately 10 percent of the population has a drug and alcohol problem. Mlnarik stated that the Well-Being Committee was looking for mandatory continuing education requirement. This will be discussed at the next meeting.

# Report by Sub-Committee on Practice Act Changes – Jacoby

The Sub-Committee on Practice Act Changes has not met since the last board meeting. They requested direction from the Board in reference to Enteral Conscious Sedation. The Sub-Committee is comfortable with the changes made, other than doing something with an instructional-type license or a license for those that don't satisfy the requirements for Nebraska, but maybe as a faculty position. Jacoby requested that changes or suggestions be received a month to six weeks prior to the committee meeting.

#### Report by Sub-Committee on Expanded Duties for Dental Assistants – Murphy

Committee met with the Nebraska Dental Association Committee. Mr. O'Doherty stated that the NDA has been working on a paper for over a year and issued a draft incorporating comments, the final draft should be issued in the next couple of weeks. Does the Board want to pursue this kind of regulation change to have more "authority" in a case, putting the list into regulation form for the attorney general to use when a defense is needed. Mlnarik asked if there were any objections to moving to Agenda Item 8B.

# <u>172 NAC 53 Rules and Regulations Governing the Performance of Duties by Licensed Dental Hygienists</u> and Other Dental Auxiliaries

Kissell suggested an ad-hoc committee to take care of list items on a case-by-case basis. The sub-committee would look at this and report at the next meeting. Hinrichs asked to be able to attend the sub-committee meetings.

# Expanded Functions for Dental Hygienists/Dental Assistants in the Orthodontic Office

The Sub-Committee on Expanded Duties for Dental Assistants did not meet since the last board meeting.

Dr. Corcoran entered the meeting at 1:03 p.m.

#### LEGISLATION

# 2006 Legislation

#### Uniform Licensing Law (ULL) Rewrite

Mlnarik stated that he had not gotten any response from his letter to the governor. Wisell stated there will need to be final language on both ULL and practice act rewrites by no later than September to have it ready for introduction in 2007 and there has not been any dates scheduled for public meetings yet.

# Practice Act Changes

Already covered with ULL Rewrite information.

#### **Enteral Conscious Sedation**

Wisell wanted to know if there was interest in trying to submit a concept paper to the Department again to see if they are willing given the information that has come to light with some issues involving conscious sedation, or if an outside group is planning to introduce legislation about this. Hinrichs moved, seconded by Murphy, to re-submit the concept paper to accept enteral conscious sedation to the Department. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

#### Consideration of CE for Participating in Well Being Activities – Murphy

Dr. William Corcoran addressed the Board. Dr. Corcoran stated that education of the dental community is essential in helping with drug and alcohol problems and would like to get a mandatory requirement for well being continuing education. Jacoby stated that up to 6 hours of public health continuing education is acceptable, but there should be a limit on each area. Mlnarik commented that this issue should be discussed at the next Continuing Education Committee meeting and recommendations be brought to the Board. Dr. Corcoran asked the Board to clarify if there is funding available for presentations and training.

Dr. Corcoran left the meeting at 1:19 p.m.

#### Dental Hygienists' Credentialing Review Final Report

This issue was not discussed. The Board members will discuss at another Board meeting.

# Faculty Licensure for Other than a Dental Education Institution – Letter from Dr. Ed Vigna

The current statutes and regulations cannot help with Dr. Vigna's situation. The Board is in the process of changing the statutes and/or regulations, however, his request cannot be granted at this time. Staff will write a letter to Dr. Vigna on behalf of the Board.

# Faculty Licensure for Other than a Dental Education Institution

Wisell explained that Dr. Gordon Mahana, UNMC, is preparing to retire and UNMC has found a replacement who is a graduate of a foreign dental school. The applicant meets the requirements, except that his employment contract would be with UNMC College of Medicine. Department Legal has looked at the situation and their opinion is that the requirement of the contract being with an accredited dental education institution can be interpreted broadly enough to mean that UNMC College of Medicine is an accredited education institution and the education being provided is dental education. Therefore, they felt there was sufficient statutory authority to issue a faculty license. Kissell stated that the schools are pushing for recognition of foreign graduates for regular licenses.

# Allowing Dental Locum Tenens to Obtain Anesthesia Permits

Wisell stated that this was resolved.

# 172 NAC 56 Regulations Governing the Practice of Dentistry and Dental Hygiene

It was decided at the last meeting that the Board would not accept Western Regional Examining Board (WREB) and the Southern Regional Testing Agency (SRTA), however the exams can't be exempted until the regulations reflect the changes. Joyce Davidson stated that the soonest the changes to the regulations could go to hearing would be July.

# <u>Fees</u>

Wisell explained base costs and variable costs, and what would be needed to support those costs and explained that there was a \$1 million reserve being planned by the Department that would be accessible to any profession for unexpected things. The Dental Board's portion is based on the number of credentials in the dental professions. After discussion, the Board agreed to increase the fees. Schrader suggested putting the information about the increase of fees in the newsletter. Hinrichs moved, seconded by Kissell, to accept the fee changes. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

Other Proposed Changes to the Regulations: Continuing education for student clinics, public health dentistry and Dr. Corcoran's proposal. Murphy stated he would like to see 2 hours for substance abuse education, required continuing education. Mlnarik stated his biggest concern is that public health and other programs could come back and ask for a certain amount of hours. Jacoby moved, to accept 2 hours of well-being continuing education, there was no second. Jacoby moved, seconded by Murphy, to allow up to 5 hours of the 30 in a 2 year period for well-being continuing education. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

The well-being continuing education would include well-being, alcohol awareness, or drug and alcohol awareness. Mlnarik wanted to eliminate the 5 hours of clinical observation. Observing a specific procedure should be the requirement, but not in the same dental office where a hygienist works. Marshall would support 2 hours of clinical observation. Wisell asked if everyone in agreement to cut clinical observation from 5 hours to 2. Kissell requested the addition of ethics and professionalism hours, up to 5, like public health education. Wisell summarized the changes as follows: clinical observation changes from 5 hours to 2, adding faculty overseeing the public health clinics, substance abuse/dependency, and ethics and professionalism, all limited to no more than 5 hours in 24 months. Murphy moved, seconded by Jacoby, to accept the changes to the regulations. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

# Dental Hygienists' Credentialing Review

No discussion at this time.

# CRDTS Annual Meeting and Workshop Review

Lott submitted a report to the Board. Mlnarik stated that the fiscal year from CRDTS is from July 1 to June 30 and the annual meeting and workshop will be held in Kansas City for 2007.

# Report on Accreditation Site for the Dental Assistant Program of Hamilton College - Hinrichs

Hinrichs stated that the process was very thorough.

#### **AADE Meeting Review**

Mlnarik stated that 41 states accept the ADEX examination, that 2700 students will have taken the ADEX examination and 31 dental schools are utilizing the ADEX examination.

# Council of Interstate Testing Agencies (CITA) Workshop

Marshall and Hinrichs attended and reported on this workshop.

# National Dental Examiners' Advisory Forum (NDEAF)

Lott commented on changes to the national examination with the ultimate goal is to get the students to be more critical thinkers.

Marshall stated there are states looking for a method or an agency that could provide them with a sense of whether the credentials are equivalent, however, some agencies utilized by other state boards will say the credentials are equivalent when the credentials aren't. AADE is trying to put together a program to accredit the education of foreign graduates. Mlnarik stated that the Commission on Dental Accreditation of the American Dental Association is going to have the standards set for accreditation in some of these areas by July of 2006.

# **Regional Examinations**

The letter from the Idaho Board of Dentistry requesting that Nebraska accept WREB, explaining that WREB is thinking of having the prosthetics exam as part of their exam in 2007. The Board would need to review changes when they are implemented in order to determine whether the WREB examination is equivalent to the CRDTS/ADEX examination.

# <u>Impressions for Child Identification</u>

Michelle Fulmer, CHIP program, requested guidelines to be able to take children's tooth prints for identification purposes. The Board's opinion is that someone within the dental profession (ie. dentists, hygienists and/or assistants) should be the only people taking impressions. Hygienists and assistants should only take impressions under the indirect supervision of dentists.

# Physical Assessment Tools Used Prior to, During, and Post Dental Treatment

Letter from Dr. Varon asking whether it is within the scope of practice of dentistry to use physical assessment tools. Wisell suggested getting more information from Dr. Varon on how he intends to use the physical assessment tools and that the Board would need to consult with the Legal Department and will send him a written response. The Board suggest getting the additional information and discussing at their July meeting.

# <u>Clarification of §71-193.15 – Department Authorization for Dental Hygienists Conducting Public Health Related Services</u>

Cynthia Carlson appeared in person and wanted to know how to obtain authorization from HHSS to provide screening at a health fair at the Nebraska Heart Institute. Through reading the statutes, she felt that the purpose of the Health Department was to promote and develop these activities and wanted to find a dentist to accept the responsibility of the dental health of whoever they're going to see. She wanted clarification on how to get this authorization easier to do more public outreach. Ms. Carlson did not talk to Dr. McFarland but talked to Vonda Apking who told her that Dr. McFarland had not given that authorization. Wisell suggested that maybe Dr. McFarland would like to discuss this with the Board. Ms. Carlson stated that this is something that was going to happen each year, doing screenings and education, and they need that general supervision. Mlnarik said he would try to contact Dr. McFarland to see if and why she has denied these requests and/or what the authority. Wisell will follow up with the Department Legal Section to get their opinion for Jane and Cynthia, and then either someone on the Board or Dr. McFarland will be in touch with Ms. Carlson.

# <u>Clarification of Whether Practicing under Dental Faculty License Would Count for Active Practice When</u> Applying for Licensure by Examination or Reciprocity

The legal determination from Roger Brink is that if a dentist didn't fit the qualification for a regular license but would for a faculty license and wanted to practice under a faculty license for a year, could that experience be used to qualify for a regular license by reciprocity. The answer is that practicing under a faculty license is not the same as practicing under a regular dental license in another state. Therefore, it could not count for the active practice requirement for applying by reciprocity.

#### **NEW BUSINESS**

# Probation Compliance Monitoring Report

Lott moved, seconded by Schrader, to approve the Michigan record keeping course and require that Dr. Barr take both Ethics Course 1 and Ethics Course 4. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

Jacoby moved, seconded by Hinrichs, to require Dr. Jerry Kohn to do remediation of whatever means that will enable him to pass the exam and require him to retake and pass this same examination within six (6) months, and to report this as a probation violation. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

#### Application(s) for Licensure

Lott moved, seconded by Jacoby, to approve the dental application of Kenneth Knott upon completion of continuing education requirement. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

# Application(s) for Licensure Continued

Jacoby moved, seconded by Lott, to approve the dental application of William Sorrell contingent on providing proof of completion of continuing education requirement between December 21, 2003 and December 21, 2005 with a maximum of 10 hours of home study. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

# Application(s) for Reinstatement after Discipline

Jacoby moved, seconded by Murphy, to deny the dental hygiene application of Darcie Jameson. The basis for this denial is that she has documented history of chemical dependency dating back to 2000; not enough time has passed since the revocation of her license for fraudulently obtaining controlled substances; she is currently serving a criminal probation; she has participated in treatment for her chemical dependency on three occasions; she has not followed through on her aftercare treatment recommendations following her discharge from her treatment program; there is documented continuance of her drug-seeking behavior; and she has not practiced dental hygiene and utilized her clinical skills since her license was revoked. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

# Application(s) for Approval of Remedial Course(s)

Lott moved, seconded by Jacoby, to approve the remedial course for Mariah Carroll. Voting aye: Hinrichs, Kissell, Jacoby, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea and Stratman. Motion carried.

# Application(s) for Approval of Local Anesthesia Course(s)

Schrader moved to accept the local anesthesia course from Northern University in Arizona. Lott asked if there were actual classroom hours, it looks like it was web-based. Mlnarik stated that approval would be postponed until the next Board meeting if clarification is received.

# Accreditation Site Visit at UNMC – October 23-25, 2007

Jacoby volunteered to be the Board's representative for the October 23-25, 2007 site visit. Wisell said she would notify UNMC and the ADA that Dr. Jacoby would be the Board's representative.

# Financial Report, Budget Status Report

Wisell presented the budget status report.

# AADE Annual Meeting – October 14-15, 2006 – Las Vegas, NV

The Board needs to consider who will attend the AADE Meeting and report at the July Board meeting. Mlnarik, Lott, Marshall will attend, possibly Hinrichs. Wisell will attend if schedule permits. Anderson expressed interest in attending.

#### CHANGE OF JULY MEETING DATE

The Board re-scheduled their next meeting from July 14, 2006 to July 28, 2006.

#### GENERAL INFORMATION

The All-Board Member meeting is being scheduled and will have more specifics at the July meeting. The Licensee Assistance Program's Annual Workshop will be held on May 19, 2006, in Omaha. The topics of discussion will be on issues of chemical dependency and abuse and will focus on relapse prevention.

#### **ADJOURNMENT**

Murphy moved, seconded by Lott, to adjourn the meeting at 4:00 p.m. Voting aye: Hinrichs, Jacoby, Kissell, Lott, Marshall, Mlnarik, Murphy, Schrader. Voting nay: none. Absent: Tamisiea, Stratman. Motion carried.

Respectfully submitted,

Doris Schrader, Secretary

Danie M. Schader

**Board of Dentistry**